



State of Utah

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October 29, 2009

Dear Charter Schools:

You recently received a letter from Risk advising that pursuant to the laws of Utah your "treasurer" needs to be bonded. This provoked a number of questions as to who exactly in your school was the treasurer who should be bonded since most of you have a board member who has the title of treasurer but the actual handling and safekeeping of funds is provided by an administration member. In other charter schools the duties normally associated with a treasurer are disbursed among many individuals and you wondered if every board member needs to be bonded if they all share in financial duties.

We have further researched this question. We believe that you should pick the person in your school organization who most resembles the definition of public treasurer: "Public treasurer" includes the state treasurer and the official of any ... school district, political subdivision, or other public body who has the responsibility for the safekeeping and investment of any public funds." This should be a single individual who ideally has the ultimate responsibility for safekeeping and investing funds. We think that in most cases this will be your business administrator (who may be an employee of a management services company such as Academica West or Charter Solutions for example).¹ This person could be someone other than

¹My analysis goes thusly: Charter Schools are subject to all of the state laws applicable to public schools except as specifically provided in the Utah Code. Utah Code Ann. §53A-1a-511(1) ("A charter school shall operate in accordance with its charter and is subject to Title 53A, State System of Public Education, and other state laws applicable to public schools, except as otherwise provided in this part"). [There is no provision exempting charter schools from Utah Code Ann. §53A-3-302, -303 discussed below.] One of the state laws applicable to public schools states that each board shall appoint a business administrator and "The business administrator qualifies for office by taking the constitutional oath of office and by posting any required bond or undertaking." Utah Code Ann. § 53A-3-302 (emphasis added). The statutes go on to state that the duties of the business administrator include being the "custodian of all district funds, be responsible and accountable for all money received and disbursed, and keep accurate records of all revenues received and their sources" and "insure that adequate internal controls are in place to safeguard the district's funds." Utah Code Ann. § 53A-3-303. Because charter schools are not exempt from this law, each charter school must have a business administrator who is charged by law with the responsibility for the safekeeping and investment of any public funds; i.e. it is the charter school's business administrator who meets the definition of public treasurer in most cases.

your business administrator if they have the ultimate responsibility to safeguard funds, such as the board member with the title of “treasurer,” but don’t let the title alone dictate your decision. In no circumstances do you need to designate and bond more than one person even if some treasurer type duties are shared, you should pick the position that comes closest to having the ultimate responsibility for safekeeping and investing funds. That person should then be bonded in accord with the procedures set out in the previous letter.

We would appreciate it if you could set forth why you chose the person you did and share that with Sol Garcia here at Risk so that we can keep a record of that. This will help us establish in the event of a theft that the law was complied with and that the Crime Policy covers all others at your school.

Thank you for your help with this matter. Obviously charter schools are still new enough that we have issues that still need to be worked out but we will continue working through them with your help and support.

Sincerely,

Morris Haggerty
Assistant Attorney General
Risk Management